THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No.6579 of 2006

ORDER:

It is the case of the petitioners that they are all the owners and possessors of the property bearing H.No.22-8-428 & 435 situated at Purani Haveli, Hyderabad.

It is stated that in February 1999, the existing road was sought to be widen by 30 feet more width by affecting 15 feet on either side of it. As, the respondents tried to take away the road width of 30 feet from one side, W.P.No.2419 of 1999 was filed before this Court, and at that time it was stated that no proposal for widening of the road was pending. The order in writ petition was passed. It is stated that while the matter stood thus, on 3-1-2006, the Municipal authorities informed that widening of the road programme has been taken up to proceed with the demolition work of 30 feet road from one side alone. Hence, I am not inclined to express any opinion on merits including the action of the respondent whether they are justified in acquiring the lands from one side only or on both sides. It is for the technical experts to make enquiry and take further action.

The grievance of the petitioner is that there is no urgency or emergency to take possession of the lands in question to invoke the provisions as contemplated under Section 17 (1) and (2) of the Land Acquisition Act. The provisions under Section 17 (4) of the Act can be invoked to take possession of the lands under Section 17 (1) of the Act, in case there is an emergency to take such possession. It is stated that without there being any emergency for taking possession of the lands for invoking the provisions under Section 17 (4), Section 5 (A) Enquiry shall be made applicable. From No.5 Draft Declaration

under Section 6 of the Land Acquisition Act and Form 2-A, Memo No.D3/69/2006, dated 25-2-2006 were published in Deccan Chronicle on 3-3-2006 in English Daily News Paper. I am not inclined to express any opinion on the invocation of the powers under Section 17 (4) and the applicability of Section 5 (A) Enquiry.

In the instant case as the road widening has been in extreme quite a long period and the draft declaration under Section 6 of the Land Acquisition Act in Form No.5 in proceedings No.D3/69/2006 has been published in Deccan Chronicle daily news paper dated 3-3-2006 has they are set aside upholding the Issuance of the 4 (1) notification of the land Acquisition Act directing the respondents to conduct Section 5 (A) enquiry and take appropriate action in accordance with law.

Accordingly, the Writ Petition is disposed of at the stage of admission.

21st March, 2006.

mrb